

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13198 of Richard H. Bryant, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7104.2 to change a non-conforming use from sales and service of door closers, first floor, to retail sale of flowers and fruit, first floor, in an SP-2 District at the premises 912 - 5th Street, N.W., (Square 484, Lot 21).

HEARING DATE: April 16, 1980
DECISION DATE: May 5, 1980

FINDINGS OF FACT:

1. The subject property is located on the west side of 5th Street between I and K Streets, N.W. and is known as 912 5th Street, N.W. It is in an SP-2 District.
2. The subject site is 88.375 feet in depth and 15.4 feet wide. It is improved with a two story, white brick row dwelling. There is a ten foot wide public alley to the rear of the site.
3. A Certificate of Occupancy, No. A-2515 dated February 7, 1950, was issued for the use of the first floor of the subject premises for sales and service of door closers.
4. The applicant proposes to change the non-conforming use for sales and service of door closers to the retail sale of flowers and fruit.
5. To the north of the subject structure there is a semi-detached dwelling used as a carry-out in the SP-2 District, followed by a vacant lot and the Subway Liquor store in the C-2-C District. To the east is 5th Street on which there is two-way traffic and metered parking, followed by a large lot used for parking, a row dwelling in the SP-2 District, and Arrow Live Poultry Company in the C-2-C District. To the south there is a row dwelling adjacent to the site in the SP-2 District and to the west there is a ten foot wide alley, followed by residential uses and a funeral home in the SP-2 and C-2-C Districts. The site of the former wax museum is located to the northeast on the northeast corner of K and 5th Streets. High-density residential development is proposed on this site.

6. The applicant's lessee proposes to keep the shop open from 6:00 a.m. to 7:00 p.m., Monday through Saturday. There will be one person employed at the site. It is anticipated that most of the orders for the flowers and baskets of fruit will be by phone and that delivery will be made by the lessee. There will be some walk-in customers.

7. There is a rear entrance to the shop which has vehicular access from a ten foot wide public alley. There is space in the rear yard to park an automobile or truck for deliveries. There is metered parking on 5th Street.

8. Under Sub-section 7104.2 of the Zoning Regulations, if approved by the BZA, a non-conforming use may be changed to a use which is permitted in the most restrictive district in which the existing non-conforming use is permitted. Both the proposed use and the sale of door closers (hardware store) are first permitted as a matter-of-right in the C-1 District.

9. The subject lot 21 was advertised as lot 24. The lot had gone through a series of changes and it was determined on the basis of a new plat that its true nomenclature was lot 21. The application was amended at the public hearing to reflect the change.

10. The Office of Planning and Development, by report dated March 27, 1980, recommended that the application be granted on the grounds that the proposed change in non-conforming use from sales and service of door closers, first floor, to retail sale of flowers and fruits, first floor, will not, in OPD's opinion, adversely affect the use of the neighboring properties. The OPD was of the view that the possibility of the proposed use creating any objectionable impact on the surrounding area would be minimal. The Office of Planning and Development finds this proposed change in non-conforming use will be in harmony with the general purpose and intent of the Zoning Regulations. The Board so finds.

11. There was no opposition to the application at the public hearing or the record.

12. Advisory Neighborhood Commission 2-C made no recommendation on the application.

CONCLUSIONS OF LAW:

Based on the record the Board concludes that the applicant has substantially complied with the requirements of Sub-section 7104.2 of the Zoning Regulations. The existing use and the proposed use are first permitted in a C-1 District. The proposed use is a neighborhood facility or a type of use if not a neighborhood


facility that will not be objectionable. The Board also concludes that the proposed use will not affect adversely the present character or future development of the neighborhood. The Board further concludes that the application can be granted as in harmony with the general intent and purpose of the zone plan and will not tend to affect adversely the use of neighboring property. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The facility should be used for retail sales only.
2. There shall be no storage for street vending use.

VOTE: 4-0 (Connie Fortune, Walter B. Lewis, William F. McIntosh and Leonard L. McCants to grant, Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 7 JUL 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.